IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Transfer Application No. 26 of 2004

Smt. Lata …… Applicant

Versus

Brijendra Kumar & others. …… Respondents

Mr. Sharad Sharma, learned counsel for the applicant.
Ms. Jyotsana, learned counsel for respondent No. 1.

Hon'ble Prafulla C. Pant, J.

This is a petition, moved under Section 24 of the Code of Civil Procedure, 1908 for transfer of Matrimonial Case No. 121 2004 filed under Section 13 of Hindu Marriage Act, 1955.

2) Heard learned counsel for the parties and perused the affidavits and counter affidavit field by the parties.

3) It is alleged in the affidavit filed in support of the application by the applicant that her husband, respondent No. 1 is employed with Northern Railways, and can conveniently come to Dehradun while she has difficulty in coming to Haridwar to attend the case pending between the parties there.

4) Brief facts of the case are that the said parties entered into wedlock on 15.11.1992 at Meerut and had a son of about three years age. It appears that earlier, respondent No. 1 instituted proceeding under Section 13 of the Hindu Marriage Act before the Judge Family Court, Ajmer, which was registered as case No. 253 of 1995. However, the ex-parte decree passed in said petition appears to have been set aside. And, this time the petition under the same Act is moved before the Judge Family Court Haridwar. Alleging that applicant (wife) had difficulty in

attending the Court at Haridwar, she had sought transfer of the case to the Judge Family Court at Dehradun.

5) In the counter affidavit, the respondent No. 1 has stated that the applicant goes every week to Meerut to her parent's place and had no difficulty in attending the Court at Haridwar.

6) Since applicant is a lady, who has a young son of three years with her, it therefore, can very well be gathered that she certainly has more difficulty and inconvenience in attending the Court at Haridwar as compared to the respondent No. 1, who is a Railway Employee and resides in District Haridwar. Though, the distance between Haridwar and Dehradun is not much but still, in the circumstances of the case in view of the fact that a child of tender age is with the applicant, it appears just and proper to transfer the case from Judge Family Court, Haridwar to Judge Family Court, Dehradun, so that without much inconvenience both the parties can attend the Court.

7) Therefore, without expressing any opinion as to the final merits of the case, the application is allowed and the Matrimonial Case No. 121 of 2004 filed under Section 13 of the Hindu Marriage Act, 1955 is transferred from Judge Family Court, Haridwar to Judge Family Court, Dehradun, with the observation that same be disposed of by the Court at Dehradun as expeditiously as possible.

(Prafulla C. Pant, J.)

Dt. 29th November, 2004
H.Negi